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SUMMARY RECORD OF THE 19th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 29 March 1996, at 3 p.m.

Chairman: Mr. VERGNE SABOIA (Brazil)

later: Mr. VASSYLENKO (Ukraine)

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The meeting was called to order at 3.15 p.m.

MEASURES TO IMPROVE THE SITUATION AND ENSURE THE HUMAN RIGHTS AND DIGNITY OF ALL MIGRANT WORKERS (agenda item 11) (continued) (E/CN.4/1996/70; E/CN.4/1996/NGO/50)

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IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF (agenda item 18) (continued) (E/CN.4/1996/95 and Add.1 and 2 and Add.2/Corr.1; E/CN.4/1996/NGO/19 and 59)

1. Mr. AMOR (Special Rapporteur), introducing his report on the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (E/CN.4/1996/95 and Add.1 and 2 and Add.2/Corr.1), said that during 1995 the examination of incidents and situations and governmental action inconsistent with the provisions of the Declaration had extended to 46 States, to which 53 communications had been addressed conveying 48 allegations, 2 reminders and 3 urgent appeals. In addition to the States mentioned in the report, eight others, namely, Austria, Belgium, Germany, Japan, Pakistan, Saudi Arabia, Slovenia and Ukraine, had replied to him. Also, 18 States had sent in their replies to communications he had transmitted to them in 1994. It was regrettable that, because of budgetary constraints, he had had to give only a very brief indication of the subject of the allegations made and the general tenor of the answers supplied, instead of publishing them in full in the report; that in his view, did a disservice both to the victims of religious intolerance and to the defenders of human rights who denounced intolerance and the States who were thereby deprived of the possibility of making their views known and providing whatever clarifications they deemed necessary. It was therefore his hope that, in accordance with General Assembly resolution 50/183 of 22 December 1995, he would receive the necessary staffing and financial and material resources to enable him to discharge his mandate.

2. He expressed appreciation to the Governments of Pakistan and Iran for their spirit of cooperation and their openness to dialogue during his two visits to those countries in June and December 1995, respectively. The scheduled visits to Greece and India had had to be deferred for various reasons.

3. Since the Commission on Human Rights had established his mandate, the perception of issues related to intolerance and discrimination based on religion or belief had evolved considerably, and to the good. Besides the elaboration of legal norms, the adoption by the General Assembly and the Commission of increasingly specific resolutions on the subject had contributed to the emergence of a new mind-set and a new kind of attitude prompting a new form of interaction between States and the international community. That had been reflected in closer collaboration between States and himself, which was a welcome development. Thanks to concerted action by the international

community, States and non-governmental organizations (NGOs), who were to be commended for their remarkable work in raising awareness and defending rights, there was a gradual movement towards a genuine world public opinion bent on combating all forms of intolerance and discrimination based on religion or belief. That was a trend that should be encouraged until it became irreversible, but he did not think that meant there should be any rush to draw up a treaty. The best course for the moment would be to take a practical approach in trying to respond appropriately to the growing aspirations that were becoming increasingly apparent. He proposed that the General Assembly should be invited to proclaim 25 November as the International Day for the Freedom of Religion and Belief.

4. Concerning the status of measures taken since the establishment of the mandate in respect of religious intolerance and the preparation of his first report, he noted that, of the 88 States to which communications (320 in all) had been addressed, 26 had never replied, representing a non-response ratio of about 29 per cent. Member States and the principal organs of the United Nations should give more attention to that problem. The allegations transmitted to States up to 1995 had involved 679 cases of violation of the provisions of the Declaration, 200 of which concerned the rights to life, physical integrity and security of person. Yet those figures did not always reflect the real extent of religious intolerance in a State and sometimes represented only the obvious and tangible part of what was really happening.

5. Another important point was that no religion was safe from violations, and that intolerance was the monopoly of neither a State nor a category of States, nor of a religion, a religious group or a religious community. It could occur just as easily in States of the South as in States of the North, but it was Christianity which, to judge from the allegations, seemed to be the target of most violations, more than the Muslim religion and far more than Buddhism, Judaism and Hinduism.

6. The problems raised in the communications had to do far more with reactions to intolerance and discrimination than with their prevention. The effects of intolerance tended to mask its causes. It was consequently important to understand the character of religion better and to take appropriate steps to encourage thinking along the lines of prevention and, primarily through education, to institute a culture of freedom, tolerance and non-discrimination in religious matters.

7. Furthermore, freedom of religion was definitely compromised, if not challenged, when it served as a cover or an alibi for criminal activities with which it was often difficult to deal. Religious extremism, something to which all religions were subject, and the hand-in-glove relationship, whether open or concealed, between politics and religion were extremely disquieting developments that threatened the fundamental right to peace. The safeguarding of the right to peace should be an incitement to developing greater international solidarity in working to stifle religious extremism of whatever shape by attacking its causes as well as its effects, without selectivity or ambivalence. The first step should be to lay down minimum common rules and principles of conduct and behaviour in respect of such extremism. On another plane, it was a basic premise that places of worship should be reserved for the practice of religion and not politics, that the legal rules governing

political parties should be formulated so as to avoid any interference with religion and that schools should be kept safe from any political and ideological indoctrination. It was impossible to overemphasize the role of education in spreading the values of tolerance and freedom, and he hoped that the questionnaire regarding the courses on religion in primary and secondary schools, to which 76 States had already replied, would allow him to make a more detailed assessment in his next report. None the less, one must not lose sight of all the other factors likely to foster greater tolerance and freedom; in that connection, the General Assembly had invited him, within the terms of his mandate and in the context of recommending remedial measures, to take into account the experiences of various States as to which measures were most effective in promoting freedom of religion and belief and countering all forms of intolerance.

8. If the freedom of religion was to receive greater and broader protection, more dialogue, patience and determination would be required with reference primarily to the actual facts but also to established international norms, and with a view to cooperation among all the parties involved. It must be emphasized that allegations made against a State in no case constituted accusations, still less judgements, but simply called for clarification and any comments deemed appropriate by the State concerned, which the Special Rapporteur must then assess. There was no cause for either judgement on the basis of assumption or preferential treatment.

9. He remained convinced that only negotiation and realistic compromises would allow progress to be made in establishing a culture of tolerance, without ever abandoning the struggle against tyrannies and totalitarianism and whatever militated against freedom of conscience.

10. Mr. Vassylenko (Ukraine) took the Chair.

11. Mr. LAOUARI (Algeria) noted that, despite the fact that States had adopted constitutional, legislative and regulatory provisions guaranteeing freedom of conscience and opinion, various forms of intolerance and exclusion continued to surface in all parts of the globe. The intolerance was heightened to critical proportions as much by the economic crisis as by the crisis of identities. The worst horrors occurred when religion, which advocated love, compassion, tolerance and respect for others, was diverted from its original goal to serve questionable political objectives. Groups of fanatics, for instance, misinterpreting sacred texts, sought to legitimize violence and terrorism. The acts they committed not only unbalanced the society in which they lived but undermined the right of individuals and peoples to peace. His delegation could therefore not agree more with the Special Rapporteur's view that the safeguarding of the right to peace should be an incitement to developing greater international solidarity in working to stifle religious extremism, without selectivity or ambivalence.

12. Algeria, whose history was marked by dialogue, understanding and peaceful co-existence among the diverse segments of its population and a rejection of all forms of discrimination, had since achieving independence undertaken to build and consolidate a constitutional and legal edifice guaranteeing the protection and promotion of human rights and fundamental freedoms, especially the freedom of conscience, religion and worship for all communities,

Christian, Jewish and Muslim, who lived together in the land. Moreover, its public authorities pursued a forward-looking educational policy aimed at fostering widespread attitudes and behaviour that would make it possible to institute a true human rights culture.

13. Unfortunately, in recent years Algeria had had to face violent outbursts of religious extremism and its corollary, terrorism, which were seeking to undo all the progress achieved. Often, even religious figures, Algerian and foreign, who did not share the views of the extremists had paid with their lives for their determination to safeguard an open, tolerant and brotherly society in Algeria. In that connection, his Government condemned in the strongest terms the kidnapping three days earlier of seven monks, a base act that was an intolerable violation of the duty of hospitality that was the pride of the Algerian people and was grounded in their religion, which taught respect for others.

14. In the conviction that intolerance and extremism based on religion and belief were a barrier to progress and a negation of democratic principles, Algeria would continue to work by all legal means towards the final elimination of that scourge, which was alien to its traditional values of peace, tolerance and hospitality.

15. Mr. GOMEZ-ROBLEDO (Mexico) said that the migration problem would no doubt be one of the main subjects of concern in the coming century, because the transport revolution had gone hand-in-hand with unprecedented population displacements. Such mass migratory movements resulted not only from war; they could also be ascribed to the current economic situation, which obliged many workers to leave and look for better opportunities elsewhere. Migrant workers had helped to create, in some of the most prosperous areas of the planet, wealth that was in no way comparable to any social benefits to which they might be entitled. In a recent report, the International Organization for Migration confirmed, for instance, that migrant workers, documented or undocumented, brought to the economies that employed them profits that were 5 to 10 times higher than the cost of the welfare services they received. Nor should it be forgotten that they usually arrived in response to a demand for manpower that could not be met by the local population.

16. In some countries migrant workers were treated in an unacceptable way and their fundamental rights were flouted. In an age when there was talk of a globalization of the economy, xenophobia would be ridiculous if it was not so tragic. Once others were considered to be inferior, every injustice and every manifestation of intolerance and exclusion were possible: one could marginalize or exploit migrant workers without any feeling of guilt. Such arguments were commonly employed by authoritarian States and their agents.

17. The protection of the basic rights of migrant workers thus began with the explicit recognition of their dignity as human beings. His Government, aware that international cooperation was indispensable in finding solutions to the problem of migratory flows, currently involving more than 100 million people in the world, had taken the initiative for the organization at Puebla of the first Regional Conference on Migration. At the close of that Conference, in which Canada, the United States, Mexico and all the Central American countries had participated, the participants had adopted a joint declaration

in which they recognized that migration could make a positive economic and cultural contribution both to the countries of origin and to the host countries, and firmly condemned violations of the fundamental rights of migrants and the traffic in migrant workers. The Conference would be followed by other meetings in Mexico and in Panama to monitor the application of the commitments made at Puebla.

18. In conclusion, his Government appealed to all States to sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. He himself was planning to submit a draft resolution on the subject to the Commission.

19. Monsignor BERTELLO (Observer for the Holy See) said that since the Commission had decided 10 years previously to appoint a special rapporteur on the question of the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, the international environment had changed profoundly. On the one hand, people were asking themselves whether religion still had a role to play in society or whether it should not simply be a matter for the individual; on the other hand, certain religious realities seemed to be causing concern to States, churches, NGOs and people of goodwill. The fear existed that religious freedom might become a source of antagonism. In section IV of his report (E/CN.4/1996/95), the Special Rapporteur rightly drew the attention of the Commission to how important education could be for tolerance. Tolerance did not simply mean passivity, uncritical acceptance or even syncretism. Rather, it was by its very nature a call for the sincere respect of the religious beliefs of others and for dialogue with others.

20. If religion was considered to be the totality of all the different relations, both personal and community, that individuals established with God, then it could not be distorted by alien elements and it contributed to the harmonious development of all the components of the human being, including the social dimension. When, on the other hand, it became an instrument of economic, social or political power, it shed its true nature - a danger to which a number of historical situations attested. It was the right freely to profess a religion, understood in those terms, which Vatican Council II, whose thirtieth anniversary the Catholic Church had just celebrated, had wished to promote, with the idea that no one should be forced to act against his or her conscience.

21. There were two situations which were doing profound damage to the right to religious freedom: the political exploitation of religion, which set population groups against one another, and the lack of mutual openness towards those who did not practise the religion of the majority, a matter to which Pope John Paul II had referred on several occasions. The Commission should therefore ensure that principles pertaining to religious freedom, both individual and collective, as enshrined in numerous international instruments, should become a part of the life of States.

22. Mr. HASSAN (Observer for the Sudan) said that his country was characterized by the coexistence, on good terms, of several national and

religious minorities. Islam, which was the main religion, placed a very high value on religious faith, laying the foundations for the respect of different religions and places of worship.

23. All the members of the different religious denominations enjoyed the same rights on Sudanese territory, whether freedom of religion or civil rights. Those rights were guaranteed by the Constitution and by Constitutional Decree No. 7 of 1993. There was no discrimination against Christians or other non-Muslims in terms of access to the civil service or recruitment into the army. Christian civil servants, for example, could take public holidays and the religious holidays dictated by their religion, for which they were usually paid.

24. As to the administration of justice, Islamic law did not apply to those professing other religions, who were tried by civil courts. Minority customs, particularly African tribal customs, were respected, for example with regard to marriage. All Sudanese, without any distinction, had the right to appeal against court decisions.

25. The Government felt that tolerance and peace, as well as respect for the rights of minorities, were the very foundations of a nation and attempted to put those principles into practice.

26. Mr. MAJDI (Observer for Morocco) said that, after relying largely on foreign labour after the First World War, since the mid-1970s Europe had been backpedalling as a result of the economic crisis and the growth in structural unemployment. Immigrants, who had formerly been sought after and courted, overnight had become the alleged cause of all the ills begetting the host countries. In economic terms, it was claimed that they cost more than they contributed, and they were accused of resisting integration, of wanting all the rights without accepting the corresponding duties, and of not being loyal citizens because of colonialism. They had become the favourite targets of extremist political parties that based their popularity on xenophobic theories and gave credence to the idea that States should protect themselves from these new barbarians.

27. That new attitude was reflected in stricter and stricter regulation of foreigners, especially migrant workers, whose freedom of movement was increasingly limited, whose right to family reunification had become quite haphazard, and who with growing frequency were the object of such arbitrary practices as refoulement, expulsion or unjustified confiscations of travel documents.

28. The issue of migrant workers was not merely one of migration but above all a matter of human rights. Certainly, the fundamental rights and freedoms proclaimed in the Universal Declaration of Human Rights and in the International Covenants of 1966 were in principle recognized in respect of migrant workers by the majority of States, which had generally accepted and ratified them. None the less, the most significant breakthrough of recent years was still the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted by the General Assembly in 1990. Morocco very much regretted that the entry into force of that Convention had been delayed by the lack of political will of

States, of which only five had ratified it thus far. The question should receive special attention from the Commission on Human Rights, and NGOs should also play a more dynamic role in the matter.

29. Mr. MAYE NSUE MANGUE (Observer for Equatorial Guinea) said that after gaining its freedom from colonial rule, since 1979 his country had embarked upon a period of democratization founded on political pluralism, which undoubtedly contributed to ensuring respect for human rights, in particular the rights of resident foreigners and religious minorities.

30. Foreigners were free to move about the country, and those who engaged in business or other legal activities were in no way disturbed, as attested by the silence of the diplomatic missions in the country, which had never called attention to any incident. Their contribution to the nation's economic development was appreciated, and they frequently enjoyed higher salaries and a more favourable situation than the local population.

31. None the less, despite the progress, as a one-time colony, Equatorial Guinea still had certain problems which it had inherited from the colonial era and the ensuing dictatorship. The wounds caused by ethnic and tribal conflicts were still sensitive, and national reconciliation had not been totally achieved. A democratic culture was lacking, and economic underdevelopment was another major obstacle to the full development of individuals and the recognition of their human dignity.

32. In order to attain the desired objectives, Equatorial Guinea needed the support of the international community; it therefore called on all countries, which had a moral obligation to contribute to its economic development, to cooperate sincerely with it in the framework of mutually beneficial projects.

33. Cognizant of its weaknesses, Equatorial Guinea was entirely ready to listen to whatever constructive criticisms might be levelled against it, as long as they were frank, relevant and not simply covet interference in the internal affairs of a country of goodwill.

34. Mrs. MARWAH (Indian Council of Education) said that her organization subscribed to the views expressed in the report of the Secretary-General on the rights of persons belonging to national or ethnic, religious and linguistic minorities (E/CN.4/1996/88). She deplored the persistence in several parts of the world of ethnic antagonism and acts of xenophobia perpetrated in disregard of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which, inter alia, called on States to protect minorities.

35. In defiance of the principles set forth in that Declaration - namely, that each individual, whether Protestant or Catholic, Muslim or Hindu, Sinhalese or Tamil, was first and foremost a human being with the same needs and aspirations as other human beings; that every individual had the right to equal treatment under the law; and that persons belonging to a minority had the right not to be forced to assimilate - the very existence or identity of minorities was often denied, and sometimes there were cases of real ethnic cleansing, as the Special Rapporteur of the Sub-Commission, Mr. Eide, had

stressed in his report (E/CN.4/Sub.2/1994/36). It was, however, true that some countries were committed to defending the rights of all religious groups, recognizing the principle of secularity in their Constitutions.

36. It was therefore essential for all Governments to bring their laws immediately into conformity with international human rights standards and the standards of international humanitarian law so that the rights of minorities, particularly the right to development, could be protected objectively, unselectively and universally.

37. Mr. BHAN (International Institute of Peace) said that, according to reports of international human rights organizations, intolerance and discrimination based on religion or belief persisted. In Pakistan, for example, where the religious and cultural rights of minorities had been guaranteed in principle since 1947, the situation of the Christian and Ahmadi minorities was still a cause for concern. While India recognized all the rights of its sizeable Muslim community, in Pakistan - which was after all a party to the International Convention on the Elimination of All Forms of Racial Discrimination - religious and ethnic minorities were systematically persecuted by the authorities. In Karachi alone, more than 2,000 people had died in ethnic violence during the past year. Although they were Muslims, the Mohajirs, who claimed a distinct cultural identity, were singled out for persecution, and more than 25,000 of them had been killed in clashes with the army. There were also cases of torture and custodial deaths, as indicated in the 1995 reports of Human Rights Watch and Amnesty International. The situation had led the European Parliament to pass a resolution calling on the Government to stop custodial deaths and enter into a dialogue with the representatives of the Mohajir minority to restore peace.

38. In order to permit minorities to exercise their basic rights effectively and without any discrimination, notably in the area of religion, as called for in the Declaration adopted by the World Conference on Human Rights held at Vienna, it was the duty of the Commission to call on all Governments to dismantle immediately those provisions and structures that not only permitted but also encouraged discrimination on the basis of religion or belief.

39. Mr. VITTORI (Pax Christi International) said that it was paradoxical how religions had been and continued to be used to justify acts of barbarism, as demonstrated by what had happened in the former Yugoslavia and Northern Ireland. The Special Rapporteur of the Commission on the Sudan, Mr. Biró had cited cases of forced conversion, in particular by kidnapping children.

40. In the face of such blasphemous interpretations of the divine word, the major Powers either kept quiet or became indignant, according to whatever political, economic or strategic interests were at stake. Thus, while the Palestinian people were receiving several million dollars, their oppressors were receiving billions. In Iraq, where religious tolerance was relatively broad, the people were suffering from a cruel international embargo which the world's greatest super-Power did not wish to lift. Its Saudi neighbour, by contrast, which even forbade anyone to wear religious tokens that were not

Islamic, had the total support of the West. In Egypt, the Copts continued to be persecuted, without that fact seeming to concern the Western partners of that geopolitically strategic country.

41. He drew particular attention to article 1 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. On the fifteenth anniversary of its adoption, the text should be republished and more widely disseminated. In addition, as called for by other NGOs and the Special Rapporteur of the Commission on that question, Mr. Amor, the United Nations should proclaim 25 November the International Day for Tolerance.

42. Mrs. AULA (Pax Christi International) said that the issue of minority rights had become especially important since the end of the cold war and in the light of the resurgence of internal conflicts of ethnic, linguistic or religious origin. Her organization was particularly concerned by the fate of the Hungarian minorities in Slovakia and Romania. In November 1995, the Slovak authorities had adopted a law that severely restricted the use of minority languages, which particularly affected the 600,000 members of the Hungarian community. That new law, which went against the principles of international law, the Hungarian-Slovak Treaty and the Slovak Constitution itself, made the exclusive use of Slovak mandatory in almost every aspect of daily life. In Romania, the authorities were taking a long time to return to the Hungarian minority the Church goods expropriated in 1948 and nationalized in 1953, thereby depriving them of vital educational and social institutions.

43. With regard to migrant workers, for many indigenous populations the very notion of a border did not exist. That was the case in Guatemala, where migration from the mountains to the coast five months a year constituted an attempt to ensure the survival of extremely impoverished families living on land unsuited to cultivation. Pax Christi called on all States to ratify ILO Convention No. 97 concerning migration for employment and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

44. Mrs. TANAKA (International Movement against All Forms of Discrimination and Racism) deplored the fact that, as of 1 December 1995, only two States had ratified that Convention. That was unacceptable, given the urgency of the problem. Mr. Glélé-Ahanhanzo, Special Rapporteur on contemporary forms of racism, and Ms. Coomaraswamy, Special Rapporteur on violence against women, had already criticized the attitude of Governments and the public in general towards migrant workers and stressed the reluctance of both sending and receiving countries to accept responsibility for them.

45. The situation was particularly difficult in Asia, which faced an unprecedented influx of migrant workers. In Japan, around 300,000 foreigners were engaged in the sex industry or in dirty, dangerous and difficult work which Japanese workers were reluctant to do. They had no official status and were frequently the victims of abuse by the immigration services and the police. It was therefore urgent that the Japanese Government should investigate their situation.

46. Mrs. FERNANDEZ (International Movement against All Forms of Discrimination and Racism) said that migrant workers in detention in Malaysia had allegedly been maltreated and tortured, sometimes to death. Although the Malaysian Government itself admitted to 42 deaths in one detention camp, mostly from beri-beri, no official at the camp had been suspended or prosecuted in court. Instead, the director of Tenaganita - a Malaysian women's organization, which had exposed the conditions - had had charges brought against her for publishing information on the subject. Yet the only fault of the migrant workers was to be the victims of the unjust world economic order. The Commission should hold the Malaysian Government accountable for its violations of the human rights of these workers. It was to be hoped that the Government would soon ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

47. Mrs. BOUVIER (Minority Rights Group) congratulated the Commission for endorsing at its previous session the Sub-Commission's proposal for a working group on minorities to promote the rights of persons belonging to minorities, as set out in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

48. The Working Group, headed by Mr. Eide, had wisely chosen a thematic approach to issues which would enable it to complement the work of the Commission and the Sub-Commission. However, that did not mean that the Working Group should enter into lengthy discussions on definitions, as had been done in the past, since they could become academic. It was very difficult to find an international definition of minorities. In Russia, minorities had a lesser status than nationalities; in Egypt, to be called a minority might suggest that a group was of lesser status; in India, the focus was on religious minorities; while in France, the State did not even recognize any minorities.

49. Rather than dwell on such a thorny issue, the Working Group should give priority to questions relating to education and to national and international development programmes that might be implemented on behalf of minorities, as called for by the Declaration. In that regard, she referred to several interesting initiatives undertaken for disadvantaged communities, such as the Tamils on the tea estates of Sri Lanka and the Roma in Eastern Europe.

50. The Working Group should further consider how to coordinate its work with that of the various United Nations treaty-monitoring bodies, such as the Committee on the Elimination of Racial Discrimination and the Human Rights Committee, and should also look at regional instruments, such as the European Framework Convention for the Protection of National Minorities. What really mattered was to enable the Working Group, which offered a unique opportunity for minorities, experts and Governments to express their opinions, and to carry out its task in a democratic spirit.

51. Mr. WARIKOO (Himalayan Research and Cultural Foundation) urged the Commission to consider the violations of the human rights of the ethnic, religious and linguistic minorities in Jammu and Kashmir, who were the victims of acts of organized violence and terrorism perpetrated by Islamic fundamentalists. The State of Jammu and Kashmir was a real ethnic, religious,

linguistic and cultural mosaic; geographically, it comprised four distinct regions. One of them, the Kashmir Valley, was predominantly Muslim, and had flourished over the centuries from the fruitful interaction of cultures and religions; since 1989, however, when Muslim fundamentalists from Pakistan had launched a religious crusade against the minorities, it had been a living hell.

52. The fundamentalists and mercenaries had indulged in ethnic religious cleansing of the indigenous minority of Kashmiri Pandits: about 1,500 of them had been murdered and more than 300,000 forced out of the Valley during the past six years. Houses and educational, cultural and religious institutions of the Kashmiri Pandits had been destroyed on a massive scale, with the object of eliminating all traces of their 5,000-year-old civilization. Having done with the Kashmiri Pandits, the mercenaries and terrorists would attack other minority groups; Shia and Gujjar Muslims were also being targeted. It was high time that the Commission strongly condemned the perpetrators of such terrorist crimes.

53. Mrs. BHUGTIAR (Liberation) drew the Commission's attention to the flouting of the freedoms of religious minorities across Asia.

54. In Tibet, the Chinese Government had imprisoned the Panchen Lama and put a pretender in his place. In Bangladesh, Buddhists, Christians and Hindus had been forcibly converted to Islam, monks had been tortured and the constitutional guarantees of religious freedom were no longer respected. In Pakistan, the denial of the rights of the Ahmadi community and death threats to Christians were causes of concern. In India, baptized Sikhs were regarded as suspects by the Punjab police, and the Dalits faced discrimination and medieval savagery at the hands of the high-caste Hindus. Muslims were at the receiving end of the Draconian anti-terrorist legislation.

55. In western Nepal, the indigenous communities were under attack by the army. In Malaysia, indigenous communities in Sarawak found their animistic beliefs under assault. In Indonesia, the Catholic Church in East Timor constantly faced intimidation, while in West Papua, the indigenous peoples were under siege by the Indonesian army.

56. Those were just a few examples of the dramatic violations being committed in various countries. Was it necessary to recall that a State could be called democratic only when its religious minorities could practise their religion unhindered and in complete security?

57. Mrs. FARHI (International Council of Jewish Women) said that, at a time when Bosnia was being carved up in a manner that legalized the ideology of ethnic purification and when conflicts over identity and religion were on the rise, the minority question was crucial; indeed, it was the most important question of the late twentieth century.

58. The problem of national minorities was rendered extremely complex by the current ethnicization of the world and was tantamount to squaring the circle. The sovereignty of States, perhaps a little less absolute than in the past, as it was to some extent curbed by the United Nations in the field of human rights, came up against the right of peoples to self-determination which,

given the extreme diversity of situations, raised the issue of definitions: what was a people, an ethnic group, a minority, a nation? One might also ask if it was really helpful to continue to adopt text after text when the necessary human rights instruments already existed and it would be enough simply to apply them.

59. An important question which underlay the problem of minorities but which did not seem to have been dealt with sufficiently in the excellent report of Mr. Eide was that of the concept of territory. Some minorities were demanding a State and others were demanding either partial autonomy or specific collective rights. From that standpoint, it would be interesting to recall the evolution of the territorial concept of different groups of people throughout history. Territory as a political entity and a source of sovereignty was a Western invention which had taken shape after the Treaty of Westphalia in 1648 and which had formed the basis for the modern political order. Today, when non-Western countries, willingly or not, had adopted that form of nation-State within strict conventional borders, contrary to their history and traditions, territory was less and less accepted as the basis for citizens' political identity and more and more tolerated or demanded as the instrument of a religious or ethnic identity. There were populations without a territory, nomadic peoples, geographically intricate multiple identities and various concepts of humanity's relations to the land.

60. Her organization supported most of the recommendations of the Special Rapporteur of the Sub-Commission (E/CN.4/Sub.2/1993/34/Add.4), particularly with regard to the inclusion of education on human rights in school curricula and raising awareness of the rights of women and the girl child, categories which were wrongly considered to be minorities and unfortunately often treated with discrimination of the same sort.

61. Mr. SHIOKAWA (International Association of Democratic Lawyers), referring to the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, drew the attention of the Commission to the attitude of the Japanese Government towards acts of discrimination on the grounds of belief which continued to occur frequently in large Japanese companies. The Government was ignoring the situation and accepted the fact that cases of discrimination brought by workers took a very long time to be tried, sometimes more than 20 years. Guilty verdicts recently pronounced against several large firms should have improved the human rights situation in the workplace, but the firms that had been convicted had not taken them seriously and had tried to file an appeal.

62. He cited three cases of discrimination. The first concerned the Kansai Electric Power Company, which the Kobe local court and Osaka higher court had convicted for its infringement on the privacy of employees, and whose appeal had been dismissed in 1995 by the Supreme Court, finally settling the matter in favour of the plaintiff after 24 years. However, the company continued to ignore the judgement and insisted that it had not violated employees' rights. In the second case, the Tokyo Electric Power Company had been convicted of violating the Constitution and labour law after 165 workers had brought a case before six local courts. The courts had found that the company had systematically engaged in discriminatory treatment against certain employees based on their personal convictions. The company had filed an appeal, but in

December 1995 had accepted the Tokyo high court's advice to reconcile with the plaintiffs. The third case concerned complaints brought by 90 workers for human rights violations and discriminatory treatment by the Chubu Electric Power Company. The court had convicted the company of discrimination against those employees it considered to be communist and had ordered it to pay compensation. However, the company had filed an appeal and the trial was still continuing, even after 21 years.

63. The CHAIRMAN invited delegations which so wished to exercise their right of reply.

64. Mr. HAFYANA (Observer for the Libyan Arab Jamahiriya) rejected the statement by a Jewish organization according to which his country welcomed the attacks committed by Hamas. The truth was that Libya had denounced the violence of which the Palestinians had been the victims for the previous half century. It did not approve of violence but felt that acts of violence must be considered within their context. In the Palestinian struggle against the occupying Power, fanaticism and the assertion of racial superiority put forward by the "chosen people of God", Libya had taken sides. He was surprised that the Jewish organization which had mentioned his country was not itself objective and did not denounce Israeli practices such as closing off the territories in an attempt to starve the Palestinian people, or the Judaization of Jerusalem and Hebron.

65. Mr. GUNCHOK Tsering (China) addressed the remarks of several NGOs which had accused China of violating religious freedom in Tibet, of imprisoning the Panchen Lama and of putting an imposter in his place. The Chinese Government had respected the religious ritual of the Buddhist tradition by confirming the reincarnated child, as had been done for centuries. The child who was alleged to have been arrested was in good health and leading a normal life. The statements of the Dalai Lama and other separatists abroad were completely erroneous and were intended only to undermine China's national unity and stability. Some of the NGOs that had taken the floor were ignorant, while others had acted out of malice in order to tarnish China's image. His Government categorically rejected that type of behaviour.

66. Mr. AN Myong Hun (Observer for the Democratic People's Republic of Korea) vehemently denounced the statement by the International Association of Educators for World Peace, which had distorted the reality in his country and attacked the memory of the late President Kim Il Sung, a leader beloved of his people who had devoted his life to freedom and to his country. Such a statement was particularly shocking within the framework of the Commission, whose role was to promote respect for human beings, and at whose meetings it was not habitual to cast aspersions on heads of State. In future the Commission should not tolerate such offensive statements, and the NGO in question should be deprived of its consultative status with the Economic and Social Council.

The meeting rose at 5.30 p.m.